IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 10.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.773 of 2006

Sheik Janibasha ... Petitioner

Vs.

1.State rep. by its
Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The District Collector and
District Magistrate ,
Thiruvannamalai District,
Thiruvannamalai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenu viz., Mohideen, S/o Sheik Janibasha, who is now detained in Central Prison, Vellore in pursuance of the Detention order passed by the 2nd respondent on 15.3.2006 in D.O.No.16/2006-C2, before this Court, call for the records, set aside the order and set the detenu at liberty forthwith.

For Petitioner : Mr.S.Swamidoss Manokaran
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the father of the detenu by name Mohideen, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 15.03.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 05.08.2006 was received by the Government on 08.08.2006 and the remarks were called for on 09.08.2006 and the representation of the detenu was received from the Government on 11.08.2006 and the parawar remarks were called for from the Sponsoring authority on the same day i.e. on 11.08.2006 and the remarks were received from the sponsoring authority on 18.08.2006. Thereafter, the remarks were received by the Government on 23.08.2006 and the File was submitted on 24.08.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 25.08.2006 and finally, the Minister for Prohibition and Excise passed orders on 28.08.2006. The rejection letter was prepared on the same day i.e. 28.08.2006 and sent to the detenu on 29.08.2006 and served to him on 31.08.2006. As rightly pointed out by the learned counsel for the petitioner, though parawar remarks were called for from the sponsoring authority on 11.08.2006, the remarks were received from the sponsoring authority by the Collectorate only on 18.08.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks to the Collectorate is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The District Collector and District Magistrate ,
Thiruvannamalai District,
Thiruvannamalai.

3. The Superintendent, Central Prison, Vellore
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

HCP. No.773 of 2006

AKM(CO)
RVL 19.10.2006

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